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September 29, 1995

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EX PARTE

William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

Re: CC Docket No. 95-20 - Computer III Further Remand Proceedings

Yesterday, Keith J. Epstein, Vice President and Counsel, Legal and External Affairs, Pacific Bell Internet Access Services, Jeffrey Thomas, Senior Counsel, Pacific Bell, and I, met with A. Richard Metzger, Jr., Deputy Common Carrier Bureau Chief, James D. Schlichting, Chief, Carol Mattey, Deputy Chief, Rose Crellin and Blaise Scinto, Policy and Program Planning Division of the Common Carrier Bureau, to discuss issues summarized in the attached outline. Please associate this material with the above-referenced proceedings.

We are submitting two copies of this notice in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

cc: Rose Crellin
Carol Mattey
A. Richard Metzger, Jr.
James D. Schlichting
Blaise Scinto

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List ABCDE

A. Integration is an important factor in our continuing to offer enhanced services.

1. Our continued participation in the enhanced service market is in the public interest particularly given our ability and willingness to serve residential, small business and rural consumers.

2. Integration is a significant factor in our ability to serve these mass markets.

3. The ability to offer enhanced services on an integrated basis is necessary to facilitate sales of network services.

B. The trend in the telecommunication industry is toward greater integration of operations and services.

1. The consumer is faced with a bewildering array of services: Local and Long Distance; Wired and Wireless; Basic and Enhanced; Service Bureau and CPE.

2. Local Competition and Sales Agency make it possible for competing telecommunication providers to offer the full range of services.

   - More that 70 Carriers have been authorized to compete with Pacific Bell for Local Toll Traffic
   - The consumer now has the ability to one-stop shop with any service provider.
   - Competitors will integrate their operations in order to achieve economies of scope and scale - and present a single point of contact to the customer.
   - Most competitors have vast resources, and access to a substantial existing customer base -- Publishing, Cable and Long Distance companies in particular.
   - AT&T's recent decision to restructure its operations is a clear signal of its intent to integrate its telecommunications operations, and provide a single face to the consumer for all their telecommunications needs.

C. <u>The cost of requiring structural separation at this point in time is high</u>.

1. Pacific has made a substantial commitment to providing enhanced services:

   - More than 1.3 million equivalent voice mailboxes in service.
   - More that 140 voice processors in service, in more than 70 locations throughout California processing more that 138 million calls per month.
   - Pacific is offering applications (electronic messaging, voice messaging and gateway services) for health care, education, and the homeless.

2. Providing enhanced services structurally separate from our network operations would put us at a severe competitive disadvantage due to:

   - creation of significant inefficiencies.
   - creation of significant customer confusion.

3. The costs to Pacific, and its consumers, incident to a new structural separation requirement would result from several factors:

   - the financial costs associated with eliminating attributes of integration (e.g., collocation, joint sales, joint operational support systems, joint research and development);
   - interruption of existing service to the customer, and loss of good will;
   - loss of regulated revenue due to the inability to joint market enhanced services with network services; and
   - Delays in the introduction of new services due to need to replicate resources.

D. Existing safeguards and network competition have done a good job preventing cross-subsidy and protecting competitors.

1. Network Disclosure: Network Disclosure prevents our integrated enhanced services operations from obtaining an unfair competitive advantage based on network interconnection.

2. Nondiscrimination Tracking Reports: Nondiscriminatory installation, maintenance and repair reports adequately assists in the detection and prevention of service discrimination

3. ONA Safeguards: In addition to integrating the CEI requirements into ONA (e.g., same technical characteristics and same interface specification for all ESPs), the Commission has added safeguards to aid in the detection and prevention of network access discrimination:

   a. "120 day" ESP request process, with reports to FCC. We have met most requests and have specific waivers for initial requests that we have been unable to meet.

   b. Requirement to develop and report to FCC on ONA services from new technologies (SS7, ISDN, IN). Progress on these services has been good.

4. Accounting Safeguards: Accounting procedures, reporting requirements, and enhanced auditing requirements assure detection and prevention of cross-subsidy. Price caps regulation further removes the incentive for cross-subsidy.

5. Competition itself is a Safeguard: Competitive alternatives to Pacific's network has mitigated the need for competitive safeguards.

   - The value of customers Pacific lost to competition in 1993 has been estimated at $4.4 Billion

   - 66% of Pacific's 800 Service has been lost to competitors.

   - AT&T's revenue growth in 1994 was 60% of Pacific's total revenue.

   - Pacific has zero market share in some markets: PCS, Cable, Internet Access, InterLATA

E. CEI - Service Specific Relief is Not in the Public Interest

1. Creates the potential for delaying the introduction of new services

2. Harms our competitive position by forcing us to provide information on plans for unregulated enhanced services to our competitors.

3. Creates opportunity for competitors to use the regulatory process to delay the introduction of new services

4. Causes inefficient use of resources contrary to FCC efficiency goal. Adds to the cost of providing new services, and places a strain on limited Commission resources.

5. Stifles innovation by making it cumbersome for us to react to consumer demand and competitive positioning.

6. Real loser is the consumer (particularly residential, small business and rural consumers) who without BOC participation may not otherwise have access to new services.

F. The Enhanced Services Market is Competitive and Thriving:

1. The enhanced services market has grown from $7.5 Billion in 1988 to $17 Billion in 1994, and conservatively expected to grow to $36 Billion by the end of the decade.

2. In 1986, opponents argued that the enhanced services industry was in its infancy and needed protection, and that BOC participation would stifle growth. Since that time, the market is has grown dramatically, and the arguments ring even more hollow today.

   - Major competitors are national and international providers, many of whom have their own local and global networks.

   - Major competitors are not barred from integrating their operations, using CPNI or providing interLATA services.

   - Major competitors are banding together to strengthen their competitive positions in the market (Cable, Wireless, Long Distance).

3. If there was real discrimination, these competitors would have filed complaints with the Commission To date, no formal complaints have been filed.